

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

TONYA WOODS WILLIAMS

VS.

CIVIL ACTION NO. 1:09CV111-DAS

MICHAEL J. ASTRUE,
Commissioner of Social Security

FINAL JUDGMENT

Pursuant to a hearing held before the undersigned United States Magistrate Judge, the court determined that the ALJ's decision is not supported by substantial evidence and that this case should be remanded to the Commissioner for additional proceedings. First, at the hearing before the Administrative Law Judge, the Vocational Expert stated that the jobs listed provided environments in which the claimant would be exposed to *no* dust, fumes, smoke, or temperature extremes. It appears to the court that such an opinion may be outside the vocational expert's expertise. On remand, the ALJ will make clear whether the vocational expert can provide such opinions. Second, while the claimant's treating physician, Dr. Don Smith, saw the claimant numerous times, it does not appear the ALJ gave his opinion any weight. Actually, the ALJ never once mentioned Dr. Smith in his opinion. Accordingly, on remand the ALJ is to provide a detailed explanation consistent with the dictates provided by *Newton v. Apfel* 209 F.3d 448 (5th Cir. 2000) as to why he is discounting Dr. Smith's reports, etc. The ALJ should likewise make clear why Dr. Patel's opinion is given no weight and what effects the claimant's obesity have on her ability to work when combined with her reactive airway disease.

Finally, the ALJ shall conduct any further proceedings not inconsistent with this order.

The parties, having consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit,

IT IS, THEREFORE, ORDERED AND ADJUDGED:

That this case is hereby **REMANDED** to the Commissioner for further proceedings as set out above.

THIS, 15th day of July, 2010.

/s/ David A. Sanders
U. S. MAGISTRATE JUDGE